



## DEPARTMENT OF TRANSPORTATION

### MATERIALS TRANSPORTATION BUREAU

WASHINGTON, D.C. 20590

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#### Title 49—Transportation

#### SUBTITLE B—OTHER REGULATIONS RELATING TO TRANSPORTATION

#### CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-127; Amdt. No. 107-1]

#### PART 107—PROCEDURES

##### Exemption Procedures

On October 10, 1975, the Materials Transportation Bureau issued procedural regulations governing the filing and processing of applications for exemptions from the Department of Transportation's hazardous materials regulations (40 FR 48466, October 15, 1975). Since that time the Bureau has become aware that a number of technical and clerical amendments to those regulations are necessary.

In section 107.111, *Party to an exemption*, paragraph (a) provides that:

Any person who is eligible to apply under § 107.103 for an exemption may apply to the Director, OHMO, to be made a party to an application filed under that section or to an exemption granted under § 107.109(d).

It was the Bureau's intention that a person could apply to be made a party to an initial application for an exemption or an application for renewal of an existing exemption. It was also the Bureau's intent to permit a person to apply to be made a party to an exemption or renewal of an exemption granted under § 107.109(d). Section 107.111 as presently written does not satisfy either of these intents. This discrepancy will be clarified by these amendments.

In § 107.113, *Application for and processing of emergency exemption*, paragraph (b), the reference to § 107.103 (b)(2) through (10) has inadvertently been written to read "§ 107.103(2) through (11)".

The last sentence in paragraph (c) of § 107.113 reads:

If the Director, OHMO, cannot determine that an emergency exists or that there is not adequate justification for the exemption, he immediately notifies the applicant.

For clarity the word "determines" will be inserted between the words "or" and "that".

In Appendix A to the exemption regulations there was a list of Department of Transportation officials through whom applications for emergency exemptions could be initiated. It has come to the Bureau's attention that the list does not identify the FAA field officials through whom commercial operators of large aircraft and aircraft operators operating under FAR Part 91 (14 CFR, Part 91) may initiate such applications. These amendments will correct this oversight.

In consideration of the foregoing, Subpart B of Part 107 of title 49, Code of Federal Regulations, is amended as follows:

1. Section 107.111(a) is amended to read as follows:

#### § 107.111 Party to an exemption.

(a) Any person who is eligible to apply under § 107.103 for an exemption may apply to the Director, OHMO, to be made a party to an application filed under that section or § 107.105 or to an exemption or renewal granted under § 107.109(d).

#### § 107.113 [Amended]

2. In § 107.113, paragraph (a) is amended by changing the reference to § 107.103(2) through (11) to read "§ 107.103(b)(2) through (10)".

3. In section 107.113, paragraph (c) is amended by inserting the word "determines" between the words "or" and "that" in the last sentence.

#### Appendix A [Amended]

4. Appendix A is amended by revising the two paragraphs captioned "AIR CARRIERS" and "AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT" to read as follows:

##### APPENDIX A

LIST OF DEPARTMENT OF TRANSPORTATION OFFICIALS THROUGH WHOM APPLICATION FOR EXEMPTIONS SEEKING PRIORITY TREATMENT ON THE BASIS OF EXISTING EMERGENCIES MAY BE INITIATED BY TELEPHONE

##### CERTIFICATE HOLDING AIRCRAFT OPERATORS

The Federal Aviation Administration Flight Standards District Office, Air Carrier District Office, or General Aviation District Office which serves the place where the flight[s] concerned will originate or which is responsible for overall inspection of the operator's operations.

##### NONCERTIFICATE HOLDING AIRCRAFT OPERATORS (OPERATORS OPERATING UNDER FAR PART 91)

The Federal Aviation Administration Flight Standards District Office, Air Carrier District Office, or General Aviation District Office which serves the place where the flight[s] concerned will originate.

Since these amendments are procedural rather than substantive and because of the need for immediate public guidance with respect to the new exemption procedures, they are being made effective in less than 30 days after publication in the FEDERAL REGISTER.

(18 U.S.C. 831-835, 46 U.S.C. 170(11), 49 U.S.C. 1421(c), 49 U.S.C. 1806, 49 CFR 1.53(c)-(h).)

**Effective date.** This amendment takes effect December 3, 1975.

Issued in Washington, D.C., on November 28, 1975.

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Director,

Materials Transportation Bureau.

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